

# Panama

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RISK & COMPLIANCE REPORT

DATE: March 2018

<b>Executive Summary - Panama</b>	
<b>Sanctions:</b>	None
<b>FAFT list of AML Deficient Countries</b>	No longer on list
<b>Higher Risk Areas:</b>	US Dept of State Money Laundering assessment Compliance with FATF 40 + 9 Recommendations Not on EU White list equivalent jurisdictions International Narcotics Control Majors List Offshore Finance Centre Compliance of OECD Global Forum's information exchange standard
<b>Medium Risk Areas:</b>	Corruption Index (Transparency International & W.G.I.) World Governance Indicators (Average score) Failed States Index (Political)(Average score)
<p><b>Major Investment Areas:</b></p> <p><b>Agriculture - products:</b> bananas, rice, corn, coffee, sugarcane, vegetables; livestock; shrimp</p> <p><b>Industries:</b> construction, brewing, cement and other construction materials, sugar milling</p> <p><b>Exports - commodities:</b> gold, bananas, shrimp, sugar, iron and steel waste, pineapples, watermelons</p> <p><b>Exports - partners:</b> South Korea 15.7%, US 14.9%, Japan 8.3%, Honduras 7.8%, Indonesia 5.9%, Thailand 5.3% (2012)</p> <p><b>Imports - commodities:</b> fuel products, medicines, vehicles, iron and steel rods, cellular phones</p> <p><b>Imports - partners:</b> US 23.6%, China 6.4%, Costa Rica 4.6%, Mexico 4.4% (2012)</p>	

**Investment Restrictions:**

Panama actively encourages foreign investment, and with few exceptions, the Government of Panama (GOP) makes no distinction between domestic and foreign companies for investment purposes.

The GOP imposes some limitations on foreign ownership in the retail and media sectors where, in most cases, ownership must be Panamanian. However, foreign investors can continue to use franchise arrangements to own retail within the confines of Panamanian law

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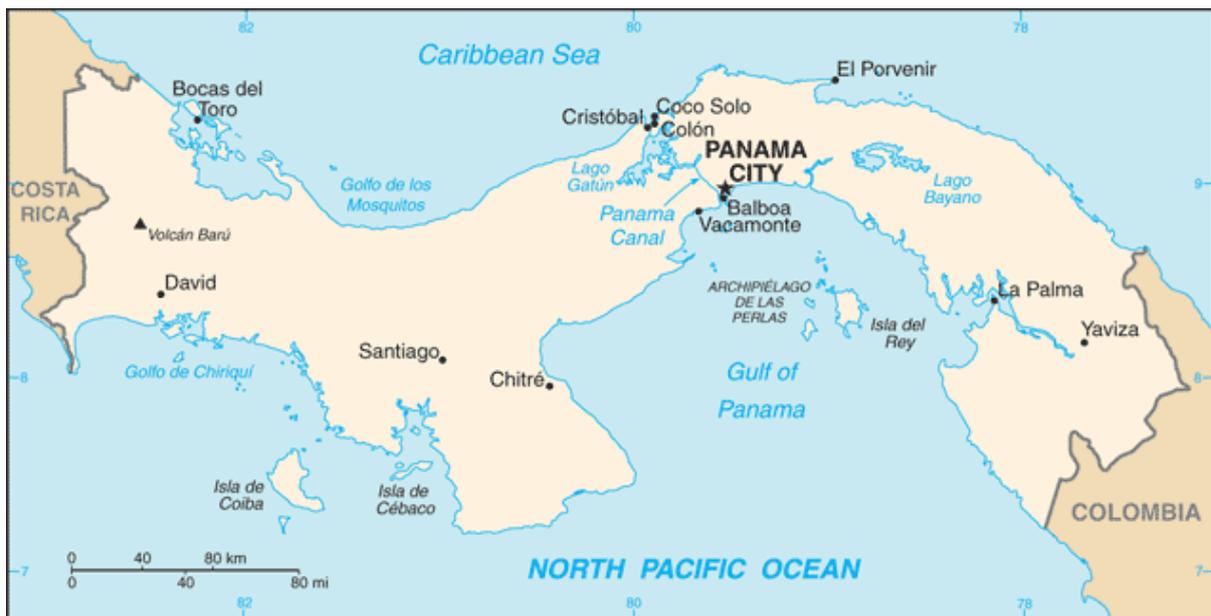
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## Section 1 - Background

Explored and settled by the Spanish in the 16th century, Panama broke with Spain in 1821 and joined a union of Colombia, Ecuador, and Venezuela - named the Republic of Gran Colombia. When the latter dissolved in 1830, Panama remained part of Colombia. With US backing, Panama seceded from Colombia in 1903 and promptly signed a treaty with the US allowing for the construction of a canal and US sovereignty over a strip of land on either side of the structure (the Panama Canal Zone). The Panama Canal was built by the US Army Corps of Engineers between 1904 and 1914. In 1977, an agreement was signed for the complete transfer of the Canal from the US to Panama by the end of the century. Certain portions of the Zone and increasing responsibility over the Canal were turned over in the subsequent decades. With US help, dictator Manuel NORIEGA was deposed in 1989. The entire Panama Canal, the area supporting the Canal, and remaining US military bases were transferred to Panama by the end of 1999. In October 2006, Panamanians approved an ambitious plan (estimated to cost \$5.3 billion) to expand the Canal. The project, which began in 2007 and could double the Canal's capacity, is expected to be completed in 2015.



## Section 2 - Anti – Money Laundering / Terrorist Financing

### FATF List of Countries that have been identified as having strategic AML deficiencies

Panama is no longer on the FATF List of Countries that have been identified as having strategic AML deficiencies

#### Latest FATF Statement - 19 February 2016

The FATF welcomes Panama's significant progress in improving its AML/CFT regime and notes that Panama has established the legal and regulatory framework to meet its commitments in its action plan regarding the strategic deficiencies that the FATF had identified in June 2014. Panama is therefore no longer subject to the FATF's monitoring process under its on-going global AML/CFT compliance process. Panama will work with GAFILAT as it continues to address the full range of AML/CFT issues identified in its mutual evaluation report.

### Compliance with FATF Recommendations

The last Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in Panama was undertaken by the Financial Action Task Force (FATF) in 2014. According to that Evaluation, Panama was deemed Compliant for 1 and Largely Compliant for 3 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for all 6 of the Core Recommendations.

#### Key Findings from latest Mutual Evaluation Report (2014):

1. Panama is vulnerable to money laundering (ML) from a number of sources including drug trafficking and other predicate crimes committed abroad such as fraud, financial and tax crimes. It is a country with an open, dollarized economy and, as a regional and international financial and corporate services center, offers a wide range of offshore financial and corporate services. It is also a transit point for drug trafficking from South American countries with some of the highest levels of production and trafficking of illegal drugs in the world. These factors put the country at high risk of being used for ML. Although the authorities have not conducted a risk assessment, they attribute the largest sources of ML to drug trafficking and other predicate crimes committed abroad. No information or estimates were provided on the extent of domestic and foreign predicate crimes and the amount of related ML in Panama. No terrorism financing (TF) cases have been detected so far.

2. Panama has criminalized ML and TF, but its AML/CFT framework is not fully in line with the FATF Recommendations. Some CFT requirements are included in subsidiary instruments but these, like other provisions contained therein, appear to go beyond the AML Law and, therefore, inconsistent with the legal principles established under the Constitution. This creates uncertainty as to their validity, if challenged. There are inadequate statistics on ML investigations, prosecutions, and convictions to properly assess the effectiveness of implementation of the ML/TF legislation.

3. The AML Law covers most of the core financial sectors but does not fully apply to the insurance sector and does not extend to a number of other financial activities as required under the FATF standard.<sup>1</sup> This Law applies to bureau de change but this high-risk sector is not subject to licensing or registration nor, in practice, is it regulated and supervised.

4. Of the designated non-financial businesses and professions (DNFBPs), only trustees are fully covered under the AML Law, while casinos and real estate brokers (legal persons only) are only subject to currency transaction reporting (CTR) obligations. Other DNFBPs including lawyers, accountants, notaries, corporate services providers (including resident agents who must be lawyers), and dealers in precious metals and stones are not covered. Resident agents providing corporate services are covered under a specific law that provides a limited range of customer identification requirements and are subject to strict secrecy provisions that severely limit or prohibit access to information by supervisors and the financial intelligence unit (FIU).

5. The substantial gaps in coverage of financial activities and DNFBPs in the AML/CFT framework pose significant ML/TF risks to the country and other jurisdictions. At the time of the mission, the authorities had no concrete plans to address these shortcomings.

6. Competent authorities, including law enforcement and the FIU, do not have timely access to information on legal persons and arrangements as required under the FATF standard. In turn, this limits their capacity to cooperate nationally and internationally. A law was passed in July 2013 to provide for the custody of bearer shares and facilitate access to information on the owners of such shares. The law will not come into force for two years (2015), and for bearer shares issued prior to the law coming into effect, a three-year transition period for compliance is provided ending during 2018.

7. The FIU's operational effectiveness is hampered by restrictions on its access to information on legal persons and arrangements and by limited resources. The FIU has identified only a few significant ML cases and has provided limited cooperation to its foreign counterparts. In addition, its operational independence could be enhanced through amended administrative reporting arrangements.

[Read Full Report](#)

**Panama is categorised by the US State Department as a Country/Jurisdiction of Primary Concern in respect of Money Laundering and Financial Crimes.**

OVERVIEW

Panama's strategic geographic location; dollarized economy; status as a regional financial, trade, and logistics hub; and favorable corporate and tax laws render it attractive for exploitation by money launderers. Panama passed comprehensive AML legal reforms in late 2015, and has made important progress in implementing these reforms, but more work needs to be done, for example, in investigating and successfully prosecuting complex money laundering schemes. The release of the "Panama Papers" and the U.S. Treasury's designation of the Waked Money Laundering Organization as a Specially Designated Narcotics Trafficker in 2016 exposed vulnerabilities in Panama's financial transparency regime.

In January 2017, Panama's National Commission on AML/CFT published its first national risk assessment, which identifies FTZs, real estate, construction, lawyers, and banks as "high risk" sectors. Reflecting the government's strong commitment to address these concerns, in May 2017, Panama released a supplemental National Strategy Report, which outlines 34 strategic priorities across five functional pillars to be pursued by 17 governmental institutions to improve its AML/CFT regime through 2019.

In August 2017, Panama reached a U.S. \$220 million plea agreement with Brazilian construction company Odebrecht, which admitted to paying U.S. \$59 million in government bribes from 2010-2014 to secure public works projects.

VULNERABILITIES AND EXPECTED TYPOLOGIES

Money laundered in Panama primarily comes from illegal activities committed abroad, including drug trafficking, tax crimes, and smuggling. Panama is a drug transshipment country due to its location along major trafficking routes. Despite concerted efforts, numerous factors hinder Panama's fight against money laundering, including inexperience with money laundering investigations and prosecutions, inconsistent enforcement of laws and regulations, corruption, and an under-resourced judicial system.

Criminals launder money via bulk cash smuggling and trade at airports, seaports, through shell companies, and the 12 active FTZs. There is a high risk that legal entities and arrangements created and registered in Panama, such as corporations, private foundations, and trusts, can be misused to launder funds, especially from foreign predicate crimes. Law firms and registered agents are key gatekeepers and are now subject to mitigation measures; however, the use of nominee shareholders and directors is still prevalent.

KEY AML LAWS AND REGULATIONS

Panama has improved its legal framework's compliance with international standards for AML prevention, enforcement, and international cooperation. Panama has comprehensive CDD and STR requirements. Law 23 of 2015 criminalizes money laundering and sets AML compliance requirements for entities in 31 sectors. The Intendencia is responsible for administrative supervision and regulation of non-financial obligors and professionals subject to supervision. The Intendencia oversees the AML compliance of over 12,000 DNFBPs across

11 broad sectorial categories, including the Colon Free Zone (CFZ), the second largest FTZ in the world. In 2017, the Intendencia also assumed oversight of MSBs and remitters and enacted stricter oversight of foundations and non-profits. As of 2016, Panama banned the issuance of new bearer shares; companies with remaining bearer shares must appoint a custodian and maintain strict controls over their use.

In 2016, the FIU launched a website for entities to submit STRs and CTRs. The FIU has registered thousands of entities and is receiving reports online, although not yet from all reporting entities.

Panama is a member of the GAFILAT, a FATF-style regional body.

#### AML DEFICIENCIES

The government has increased its training and outreach; however, entities often submit inconsistent, incomplete, or unnecessary STRs or CTRs. Bank compliance officers often include minimal analysis in STRs, fearing liability; some notify clients and/or bank executives and directors about investigations. Panama has no tipping off law to criminalize such acts.

The government has increased support to regulators. However, Panama continues to lack sufficient resources, including trained staff with industry experience to effectively monitor whether entities (particularly DNFBNs) comply with reporting requirements. Regulators cannot access STRs/CTRs due to confidentiality laws.

The FIU should improve the quality of its STR analysis. The FIU also should shorten its response times to foreign counterparts and improve the quality of its requests for information to those counterparts, so that information exchanges and collaboration on significant cases can be expedited. Elevating the FIU to independent agency status would further insulate it from outside influence.

The CFZ remains vulnerable to illicit financial and trade activities, due to weak customs enforcement and limited oversight of transactions.

Panama does not yet criminalize nor list tax evasion as a predicate crime but is considering legislation to do so in 2018.

#### ENFORCEMENT/IMPLEMENTATION ISSUES AND COMMENTS

Panama completed the transition to a U.S.-style accusatory penal system in September 2016 but prosecutors lack experience and effectiveness under the new system, as the majority of the cases they prosecute are under the old system. Panama does not accurately track criminal prosecutions and convictions related to money laundering. Law enforcement needs more tools and protection to conduct long-term, complex financial investigations, including undercover operations. The criminal justice system remains at risk for corruption.

In 2013, the Government of Panama and the United States signed an agreement creating a bilateral committee to allocate U.S. \$36 million in forfeited assets. More than half this amount has been applied to strengthening Panama's AML framework.

#### **EU Tax Blacklist**

Panama was removed from the EU Tax Blacklist on 23 January 2018 following "commitments made at a high political level to remedy EU concerns".

### **Current Weaknesses in Government Legislation (2013 INCRS Comparative Tables):**

According to the US State Department, Panama does not conform with regard to the following government legislation: -

**Criminalised Tipping Off** - By law, disclosure of the reporting of suspicious or unusual activity to an individual who is the subject of such a report, or to a third party, is a criminal offense.

### **EU White list of Equivalent Jurisdictions**

Panama is not currently on the EU White list of Equivalent Jurisdictions

### **World Governance indicators**

[To view historic Governance Indicators Ctrl + Click here and then select country](#)

### **Failed States Index**

[To view Failed States Index Ctrl + Click here](#)

### **Offshore Financial Centre**

Panama is considered to be an Offshore Financial Centre

## **Narcotics - 2017**

### **Introduction**

Panama remains a major transshipment crossroads for illicit drug trafficking due to its location and logistics infrastructure. Panama does not produce significant amounts of drugs destined for the United States market, though limited cannabis cultivation occurs in remote regions for local consumption. Transnational drug trafficking organizations, including Mexican and Colombian groups, move illegal contraband through Panama's remote Darién region and along its coastline and littoral zones. Drug traffickers also exploit Panama's transportation infrastructure, including the second largest free trade zone in the world, four major container seaports, airports, and the Pan-American Highway. The Panamanian government is concerned that drug consumption and gang activity may be growing within the country and is committed to working with international partners to confront drug use and trafficking both domestically and regionally. The United States enjoys strong partnerships with all Panamanian security services.

### **Conclusion**

The Government of Panama continued its support for coordinated counternarcotics operations and investigations in 2016, while continuing to invest in building its own capacity. Panama remains one of the regional leaders in narcotics interdiction and seizures, and President Varela has stated a desire to further expand his country's regional leadership. Nevertheless, the overall magnitude of the drug threat exceeds the capacity of Panama's security services to manage it alone. To maintain the momentum of recent improvements, the United States will continue to assist Panama in implementing reforms. Bureaucracy and incapacity hinder the judicial system's ability to dismantle transnational criminal organizations or successfully prosecute major criminals. The United States is committed to continuing to work positively with all the security services and encourages stronger and more organized support for the prosecutorial sector.

### **Trafficking in Persons**

Panama is classified a Tier 2 country - A country whose governments does not fully comply with the Trafficking Victims Protection Act's minimum standards, but are making significant efforts to bring themselves into compliance with those standards.

Panama is a source, transit, and destination country for men, women, and children subjected to sex trafficking and forced labor. Panamanian women are vulnerable to sex trafficking in other countries, including The Bahamas and Guyana. In Panama, most identified trafficking victims are foreign adults exploited in sex trafficking, especially women from Brazil, Colombia, Venezuela, Cuba, the Dominican Republic, Honduras, and Nicaragua.

Traffickers recruit female victims with promises of good jobs and high salaries in the housekeeping and restaurant industries, as well as for modeling and prostitution, but exploit them in sex trafficking or, to a lesser extent, domestic servitude. Nicaraguan and, to a lesser extent, Colombian men are subjected to labor trafficking in construction, agriculture, mining, and other sectors; most labor trafficking victims come from Nicaragua via bus and enter Panama from Costa Rica. Colombian refugees are also vulnerable to trafficking due to their lack of knowledge of the refugee process and irregular status. In recent years, men and women from China have been subjected to debt bondage in supermarkets, laundries, and other small businesses operated by Chinese citizens; traffickers have subjected Colombian men to forced labor in restaurants; an international organization has identified cases of debt bondage among Indian men in door-to-door peddling; and authorities have identified potential sex trafficking victims among Eastern European women working in nightclubs. Men from the United States have been investigated as child sex tourists in Panama. Panamanian and European officials report some men and women from Central America who transit Panama en route to the Caribbean or Europe are subjected to sex or labor trafficking in their destination countries. In previous years, immigration officials have been investigated for labor trafficking.

Traffickers often charge foreign workers exorbitant travel and lodging fees to keep them in debt bondage, often restricting victims' movement until they pay off such debts. Victims report traffickers threaten to harm family members in their countries of origin if they do not comply. Traffickers increasingly exploit sex trafficking victims in private residences, as opposed to brothels or bars, which makes such offenses harder to detect. Traffickers from Brazil, Colombia, Cuba, El Salvador, Venezuela, and Panama operated in Panama during the reporting period. In a change from previous years, government officials report more traffickers are creating legal businesses as facades to mask their income from trafficking. In addition, more identified traffickers had links to international organized criminal groups than in past years.

The Government of Panama does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. Authorities identified significantly more trafficking victims and initiated more trafficking investigations than the previous reporting period and continued to provide and fund anti-trafficking training for officials. However, victim protection measures remained severely inadequate; the government did not allocate funding to its trafficking victim assistance fund, and the majority of identified victims did not receive services beyond an initial medical evaluation. The government convicted fewer traffickers, and a lack of coordination between ministries and resource constraints hampered the effectiveness of the national anti-trafficking commission.

### **Terrorist Financing 2016**

**Overview:** In recent years, the Revolutionary Armed Forces of Colombia (FARC) was the most direct terrorism threat to Panama due to its use of the Darién region of Panama as a staging ground, a rest and recuperation point, and a rearming locale. With limited but consistent U.S. training assistance, Panamanian authorities have substantially eliminated the FARC's ability to operate in the Darién. The conclusion of the Colombian Peace Process with the FARC further reduced the FARC threat in the Darién region.

The Darién region remained a significant and growing pathway for human smuggling. In 2016, Panamanian authorities detained more than 20,000 migrants attempting to or having entered Panama illegally from Colombia; African, South Asian, and Middle Eastern individuals represented a small portion of the overall migrant flow. During the year, Panamanian authorities worked with U.S. authorities to detain and repatriate individuals for whom there were elevated suspicions of links to potential terrorism.

Panama is one of two countries in the hemisphere that joined the Global Coalition to Defeat ISIS. Panama participates in the Defeat-ISIS Coalition's Counter-ISIS Finance Group. Panamanian officials repeatedly reiterated Panama's support for the work of the Coalition.

**Legislation, Law Enforcement, and Border Security:** Panama has comprehensive counterterrorism legislation and a robust counterterrorism legal framework. Title IX, Chapter 1 of the Panamanian criminal code criminalizes acts of terrorism. Individuals who attempt to disturb the public peace, cause panic, terror, or fear in the population, or a subset thereof, through the use of radioactive materials, weapons, fire, explosives, biological or toxic substances, or any other means of massive destruction or element with that potential, are subject to prison sentences ranging from 20 to 30 years. Panamanian law also sanctions any individual who knowingly finances, grants, hides, or transfers money, goods, or other financial resources for use in the commission of the above referenced crimes to a period of confinement ranging from 25 to 30 years in prison. Those who use the internet to recruit terrorists or to provide bomb-making instructions are subject to confinement of five to 10 years.

The Government of Panama maintains counterterrorism units within the National Border Service, the National Air-Naval Service, the Panamanian National Police (PNP), Panama's National Security Council, and the Institutional Protection Service, which is responsible for the protection of Panamanian and foreign dignitaries. Short-term, multi-agency task forces have improved inter-service coordination, cooperation, and information sharing, but the country does not have a formal coordinating authority below the Cabinet level.

Panama is a critical financial, transportation, and logistics hub, and the Panama Canal remains its most-critical infrastructure asset. Panama does not maintain a national control list of dual-use goods, and legal interpretations limit the government's ability to analyze and inspect cargo transshipping or transiting the country, including dual-use items.

A key focus of counterterrorism efforts in Panama has been securing its land borders as well as the airports and seaports throughout the country. U.S. Customs and Border Protection (CBP) continued to cooperate with Panamanian authorities at Tocumen International Airport, and has been successful using the linkage between Panama's Advance Passenger Information (API) System and CBP targeting systems. Panama collected nearly 100 percent of API data and actively seeks complete Passenger Name Record (PNR) data. Panama continued to seek agreements with regional partners to enhance API and PNR data, as well as associated migration and criminal derogatory information, to enhance regional security. CBP continued to work with Panamanian authorities to improve its capacity to capture and transmit all API and PNR data. Mobile security teams, including those operating under the CBP Joint Security Program, partner with host country law enforcement officers operating in Tocumen International Airport to identify air passengers linked to terrorism. Panamanian authorities began to screen travelers using a state-of-the-art border management system,

which has been integrated with existing technologies employed by the Panamanian government to secure national borders.

**Countering the Financing of Terrorism:** Panama is a member of the Financial Action Task Force of Latin America (GAFILAT), a Financial Action Task Force (FATF)-style regional body. Panama's financial intelligence unit, Unidad de Analisis Financiero (Financial Analysis Unit), is a member of the Egmont Group of Financial Intelligence Units. On July 19, 2016, by Executive Decree 324, Panama created an Antiterrorism Department within the National Security Council responsible for coordinating Panama's counterterrorist financing efforts as well as tracking and coordinating responses to UN Security Council (UNSC) designations. In the same decree, Panama created a new Committee for the Prevention of Terrorism and Terrorist financing responsible for reviewing relevant information to determine whether individuals or entities warrant nomination for inclusion on the UNSC ISIL (Da'esh) and al-Qa'ida sanctions regime sanctions list or if they should be included in Panama's domestic list of terrorists and terrorist financiers. The Committee distributes the lists of the designated individuals and entities electronically. Panama has yet to identify and freeze assets belonging to terrorists or sanctioned individuals and organizations. It has also not prosecuted any terrorist financing cases.

Panama criminalized terrorist financing under multiple laws passed in 2015. Panamanian law permits the freezing, seizure, and confiscation of the instruments and proceeds of criminal enterprises, including money laundering and terrorist financing. Implementing regulations allow for the freezing of assets of persons or entities listed under UN Sanctions regimes, including UNSC ISIL (Da'esh) and al-Qa'ida sanctions regime. It does not; however, provide for the confiscation of property of corresponding value and the application of other measures.

A division of the Ministry of Economy and Finance supervises money transfer services and remittance houses including businesses in the Colon Free Trade Zone, Panama's Diamond and Jewelry Exchange, casinos, money exchangers, real estate brokers, auto dealerships, and other entities. While there is no requirement for non-profit organizations to file suspicious transaction reports, the government does monitor them for suspicious transactions and requires the collection of Know Your Customer data for wire transfers.

## International Sanctions

Panama is not currently subject to any International Sanctions

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	37
World Governance Indicator – Control of Corruption	36

### US State Department

President-elect Varella campaigned on a pledge to eliminate corruption in the government, increase transparency, and prosecute corrupt officials. President Martinelli campaigned on a similar promise in 2009 but his administration was consistently plagued with allegations of corruption by politicians and the business community.

In the most recent edition (2013) of the Transparency International Corruption Perceptions Index, Panama ranked 102 out of 177 countries measured. The Panamanian judicial system continues to pose a problem for investors due to poorly trained personnel, case backlogs, and a lack of independence from political influence. Supreme Court judges are typically nominated to their 10-year terms on the basis of political considerations.

Under Panamanian law, only the National Assembly may initiate corruption investigations against Supreme Court judges and only the Supreme Court may initiate investigations against members of the National Assembly, thereby encouraging, in effect, a “non-aggression pact” between these two branches of government.

The fight against corruption is also hampered by the GOP’s refusal to dismantle Panama’s dictatorship-era libel and contempt laws, which can be used to punish whistleblowers, while those accused of acts of corruption are seldom prosecuted and almost never jailed.

Anti-corruption mechanisms exist, such as asset forfeiture, whistleblower and witness protection, and conflict-of-interest rules. However, the general perception is that anti-corruption laws are not applied rigorously, and that government enforcement bodies and the courts are not effective in pursuing and prosecuting those accused of corruption, particularly in high profile cases. Panama’s government lacks strong systemic checks and balances that incentivize accountability. The lack of a strong professionalized career civil service in Panama’s public sector also hinders systemic change.

Panama ratified the United Nations’ Anti-Corruption Convention in 2005 and the Organization of American States’ Inter-American Convention Against Corruption in 1998. However, there is a perception that Panama could more effectively implement the conventions.

Complaints by American investors about allegedly corrupt judicial and governmental decisions prejudicial to their interests remain common and problematic. However, despite

allegations of corruption, other than cases involving drug trafficking, GOP officials, judges, and legislators are seldom investigated, much less convicted on corruption charges.

### Section 3 - Economy

Panama's dollar-based economy rests primarily on a well-developed services sector that accounts for more than three-quarters of GDP. Services include operating the Panama Canal, logistics, banking, the Colon Free Trade Zone, insurance, container ports, flagship registry, and tourism. Panama's transportation and logistics services sectors, along with infrastructure development projects, have boosted economic growth; however, public debt surpassed \$32 billion in 2015 because of excessive government spending and public works projects. The US-Panama Trade Promotion Agreement was approved by Congress and signed into law in October 2011, and entered into force in October 2012.

Growth will be bolstered by the Panama Canal expansion project that began in 2007 and is estimated to be completed by 2016 at a cost of \$5.3 billion - about 10-15% of current GDP. The expansion project will more than double the Canal's capacity, enabling it to accommodate ships that are too large to traverse the existing canal. The US and China are the top users of the Canal. In 2014, Panama completed a metro system in Panama City, valued at \$1.2 billion.

Strong economic performance has not translated into broadly shared prosperity, as Panama has the second worst income distribution in Latin America. About one-fourth of the population lives in poverty; however, from 2006 to 2012 poverty was reduced by 10 percentage points.

#### **Agriculture - products:**

bananas, rice, corn, coffee, sugarcane, vegetables; livestock; shrimp

#### **Industries:**

construction, brewing, cement and other construction materials, sugar milling

#### **Exports - commodities:**

fruit and nuts, fish, iron and steel waste, wood

#### **Exports - partners:**

US 19.7%, Germany 13.2%, Costa Rica 7.7%, China 5.9%, Netherlands 4.1% (2015)

#### **Imports - commodities:**

fuels, machinery, vehicles, iron and steel rods, pharmaceuticals

#### **Imports - partners:**

US 25.9%, China 9.6%, Mexico 5.1% (2015)

### **Banking**

The U.S. Dollar is Panama's currency and there is no central bank. The National Bank of Panama has certain functions of a central bank, such as serving as the clearinghouse for the

banking system.

Panama opened its banking sector to foreign competition in 1971 under legislation which placed high priority on banker-depositor confidentiality. In late 2010, there were 93 banks registered in Panama with total assets of \$70.9 billion. The banking legislation establishes three classes of operations. General license banks operate full service banks in Panama and compete for domestic deposits and loans. International License or "Offshore" banks, can only accept deposits from persons or organizations located overseas. Representative Offices can only perform representational activities. There are also two state-owned deposit-taking institutions. Foreign and Panamanian banks compete on equal terms. Banks are organized into the Panamanian Banking Association (Panamanian and Foreign Banks) and are licensed and regulated by the Banking Supervisory Authority (Superintendencia de Bancos). Panama's banking system does not have a deposit insurance scheme.

### **Stock Exchange**

[Bolsa de Valores de Panamá, S. A.](#), (the Panama Stock exchange) is a corporation organized under the Laws of the Republic of Panama. Its shareholder base is made up of the main local banks, including Banco Nacional de Panamá (National Bank of Panama) as well as commercial, insurance and industrial corporations and concerns, businessmen, professionals and stockbrokers.

Since its creation in 1990, the Panama Stock Exchange has been an important part of the development of Panama's role as a regional financial centre. Most transactions centre on government bonds. The exchange is the only dollar-based securities market in the region. The main corporate candidates for listing are the many companies of Central America and the northern countries of South America that have strong balance sheets but are too small to issue shares in New York.

Electronic trading began to replace the open outcry system in 2003, and the Stock Exchange now operates an electronic trading system with remote trading terminals for all Stock Exchange seatholders. In certain special circumstances where the electronic system fails, the BVP has adopted open outcry trading norms for used on the Stock Exchange floor with a physical presence of the participants.

## Section 4 - Investment Climate

### Executive Summary

As the home of the Panama Canal, the world's second largest free trade zone, and sophisticated logistics and finance operations, Panama attracts relatively high levels of foreign direct investment from the region and around the world. Panama boasts one of the Western Hemisphere's fastest growing economies, good credit, a strategic location, and a stable, democratically elected government.

Panama's Ministry of Economy and Finance predicts the economy will grow by 6.2 percent in 2016, following expansion of 5.8 percent in 2015 and 6.1 percent in 2014. Panama's sovereign debt rating is investment grade, with ratings of Baa2 (Moody's), and BBB (Fitch and Standard and Poor's). The Panama Canal Authority will inaugurate the \$5.25 billion expansion project of the Panama Canal in June of 2016, which in turn is expected to increase investment in port systems operations, storage facilities and logistics. Panama's President, Juan Carlos Varela, has sought to improve Panama's image and investment climate profile. Overall foreign investment was up 17 percent in 2015, and Panama retains one of the highest "FDI to GDP" ratios in Latin America. The Varela administration has also presided over a series of anti-money laundering reforms that resulted in Panama's removal from the Financial Action Task Force "Grey List" in 2016.

Panama has implemented free trade agreements with Canada, Chile, Costa Rica, the European Union, Guatemala, Honduras, Nicaragua, Peru the European Free Trade Association, Mexico, and the United States, as well as one partial scope agreement with Cuba. Panama is exploring entry into the Pacific Alliance, negotiating a trade agreement with South Korea, and arranging the entry into force of trade agreements with Colombia and Trinidad and Tobago. This pro-trade posture has further increased Panama's openness to foreign investment and has provided new protections and privileges for foreign investors.

Panama has challenges, including a poor educational system, high labor costs, a lack of skilled workers, and reports of corruption, fraud, and a perceived lack of judicial transparency. Foreign investors in Panama have also complained about a lack of transparency in government procurements. Some U.S. Firms have reported inconsistent, unfair, and biased treatment from Panamanian courts.

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2015	72 of 168	<a href="http://transparency.org/cpi2014/results">transparency.org/cpi2014/results</a>
World Bank's Doing Business Report "Ease of Doing Business"	2015	69 of 189	<a href="http://doingbusiness.org/rankings">doingbusiness.org/rankings</a>
Global Innovation Index	2015	56 of 131	<a href="http://globalinnovationindex.org/content/page/data-analysis">globalinnovationindex.org/content/page/data-analysis</a>

U.S. FDI in partner country (\$M USD, stock positions)	2015	\$4687	BEA data available 4/14/16 at <a href="http://bea.gov/international/factsheet/factsheet.cfm">bea.gov/international/factsheet/factsheet.cfm</a>
World Bank GNI per capita	2014	11,130	<a href="http://data.worldbank.org/indicator/NY.GNP.PCAP.CD">data.worldbank.org/indicator/NY.GNP.PCAP.CD</a>

## 1. Openness To, and Restrictions Upon, Foreign Investment

### Attitude toward Foreign Direct Investment

Panama is heavily dependent on foreign investment and has worked to make the investment process attractive and simple for investors. With few exceptions, the Government of Panama makes no distinction between domestic and foreign companies for investment purposes. Panama benefits from stable and consistent economic policies, a dollarized economy and a government that consistently supports trade and open markets.

The United States and Panama have signed a Trade Promotion Agreement that entered into force in October of 2012. The U.S.-Panama TPA has significantly liberalized trade in goods and services, including financial services. The TPA also includes sections on customs administration and trade facilitation, sanitary and phyto-sanitary measures, technical barriers to trade, government procurement, investment, telecommunications, electronic commerce, intellectual property rights, and labor and environmental protection.

Panama has one of the few Latin American economies that is predominantly services-based. Services represent nearly 90 percent of Panama's Gross Domestic Product. The TPA has improved U.S. firms' access to Panama's services sector and gives U.S. investors better access than other WTO Members under the General Agreement on Trade in Services. All services sectors are covered under the TPA, except where Panama has made specific exceptions. Under the agreement, Panama has provided improved access in sectors like express delivery, and granted new access in certain areas that had previously been reserved for Panamanian nationals. In addition, Panama agreed to become a full participant in the WTO Information Technology Agreement.

The office of Panama's Vice Minister of International Trade within the Ministry of Commerce and Industry is the principal entity responsible for promoting and facilitating foreign investment and exports. Through its Proinvex service (<http://proinvex.mici.gob.pa>) the government provides investors with information, expedites specific projects, leads investment-seeking missions abroad, and supports foreign investment missions to Panama. In some cases, other government offices may work with investors to ensure that regulations and requirements for land use, employment, special investment incentives, business licensing, and other requirements are met. While there is no formal investment screening by the GOP, the government does monitor large foreign investments.

### Other Investment Policy Reviews

In 2014 the World Trade Organization completed a Trade Policy Review of Panama. The results of the review can be found here:

[https://docs.wto.org/dol2fe/Pages/FE\\_Search/FE\\_S\\_S009-DP.aspx?language=E&CatalogueIdList=127724,127725,125292,125291&CurrentCatalogueIdIndex=0&FullTextSearch=](https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueIdList=127724,127725,125292,125291&CurrentCatalogueIdIndex=0&FullTextSearch=)

#### Laws/Regulations on Foreign Direct Investment

There are different incentive laws, depending on the activity. Multinational Headquarters, Investment stability Law, Incentives for the Film Industry, Call Centers, Industrial Promotion (CFI) and Promotion of Agriculture exports. You may access [www.proinvex.mici.gob.pa](http://www.proinvex.mici.gob.pa) for more details on tax and other benefits.

#### *Business Registration*

Procedures regarding how to register a business for domestic and foreign businesses can be found here: <http://panama.eregulations.org/menu/116?l=es>. Applicants must submit notarized documents to the Mercantile Division of the Public Registry, the Ministry of Trade and Industry and the Social Security Institute. According to the government of Panama, applications for foreign businesses take between one and six days.

#### Industrial Promotion

Panama provides Industrial Promotion Certificates (IPCs) to incentivize industrial development in high value-added sectors, and specifically targets R&D, management and quality assurance systems, environmental management, utilities and human resources. Approved IPC's provide up to 35 percent in tax reimbursements, and preferential import tariffs of 3 percent.

#### Limits on Foreign Control and Right to Private Ownership and Establishment

The GOP imposes some limitations on foreign ownership in the retail and media sectors where, in most cases, ownership must be Panamanian. However, foreign investors can continue to use franchise arrangements to own retail within the confines of Panamanian law (under the TPA, direct U.S. ownership of consumer retail is allowed in limited circumstances).

In addition to limitations on ownership, the exercise of approximately 55 professions is reserved for Panamanian nationals. Specifically, medical practitioners, lawyers, accountants, and customs brokers must be Panamanian citizens. The GOP also requires foreigners in some sectors to obtain explicit permission to work. However, there are no reports of such restrictions hindering U.S. firms operating in Panama.

With the exceptions of retail trade, the media and several professions, foreign and domestic entities have the right to establish, own, and dispose of business interests in virtually all forms of remunerative activity. Foreigners need not be legally resident or physically present in Panama to establish corporations or to obtain local operating licenses for a foreign corporation. Business visas (and even citizenship) are readily obtainable for significant investors.

#### Privatization Program

Panama's privatization framework law does not distinguish between foreign and domestic investor participation in prospective privatizations. The law calls for pre-screening of potential investors or bidders in certain cases to establish technical viability, but nationality and Panamanian participation are not criteria. The Government of Panama undertook a series of privatizations the mid-1990s including most of the electricity generation, distribution, ports and telecommunications sectors.

#### Screening of FDI

While there is no formal investment screening by the GOP, the government does monitor large foreign investments.

#### Competition Law

Panama's Consumer Protection and Anti-Trust Agency, established by Law 45, October 31, 2007, reviews transactions for competition related concerns and serves as a consumer protection agency.

## **2. Conversion and Transfer Policies**

#### Foreign Exchange

Panama's official currency is the U.S. Dollar.

#### *Remittance Policies*

Panama's strategic geographic location, dollarized economy, status as a regional financial, trade, and logistics center, and lax regulatory system make it an attractive target for money launderers. Money laundered in Panama is believed to come in large part from the proceeds of drug trafficking. Tax evasion, bank fraud, and corruption are also believed to be major sources of illicit funds. Money is often laundered via bulk cash and trade by exploiting vulnerabilities at the airport, utilizing free trade zones (FTZs), and exploiting the lack of regulatory monitoring in many sectors of the economy.

Panama's history of client secrecy and its developed offshore banking and corporate services sector was exposed in April 2016 when one of its top law firms was the target of a massive hack and data dump. This occurred just after Panama was removed from FATF's Grey List in recognition of a number of steps it had taken to strengthen its anti-money laundering regime, to include eliminating the use of bearer shares, passing strong AML legislation in 2015 and constituting an empowered and capable Financial Intelligence Unit (Unidad de Analisis Financiero).

Panama strengthened its legal framework, amended its criminal code, harmonized legislation with international standards, and passed a new AML/CFT law and other legislation enhancing the framework for international cooperation and expanding the number of entities and transactions affected by suspicious activity reporting. Panama is developing a framework for freezing terrorist assets and customer due diligence regulations. Panama's financial intelligence unit has also significantly improved its analytic capacity. Panama enacted law 18 2015 to eliminate bearer shares in an effort to comply with OECD requirements.

The judicial branch's capacity to successfully prosecute and convict money launderers remains weak, and judges remain susceptible to corruption. The transition to a U.S.-style accusatory judicial system, which began in September 2010, is expected to be implemented in all the provinces by 2016. To date, all known money-laundering convictions are tied to bulk cash cases with an obvious connection to a predicate crime.

### **3. Expropriation and Compensation**

Panamanian law recognizes the concept of eminent domain but it is rarely exercised. In one recent case, a US company voiced concern about being reimbursed at fair market value in a case where the government's revocation of a concession adversely impacted access or use of the investors' property.

There are no current international arbitration cases alleging direct expropriation of property by the Panamanian government.

### **4. Dispute Settlement**

Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts

Panama is transitioning from the civil to the accusatory system with the goal of simplifying and expediting criminal judicial cases. The system has been implemented in six provinces, though it has yet to be implemented in the commercial centers of Panama City and Colon. Fundamental procedural rights in civil cases are broadly similar to those available in U.S. civil courts, although some notice and discovery rights, particularly in administrative matters, may be less extensive than in the U.S. Judicial pleadings are not always a matter of public record, nor are the processes always transparent.

Bankruptcy

Commercial law is comprehensive and well-established. The World Bank 2016 Doing Business currently ranks Panama 132/189 for resolving insolvency because of the antiquated law, slow court systems, and complexity of the process. A new bankruptcy law was approved in 2015 and is expected to improve some of these deficiencies.

Investment Disputes

Resolving commercial and investment disputes in Panama can be a lengthy and complex process. Despite protections built into the U.S.-Panamanian trade agreements, investors have repeatedly struggled to resolve investment issues in courts. There are frequent claims of bias and favoritism in the court system and complaints about the lack of adequate titling, inconsistent regulations, and a lack of trained officials outside of the capital. [The World Economic Forum](#) – Global Competitiveness Index 2015-2016 report ranks the independence of Panama's judicial system 119 out of 140 countries. Politically connected businesses have benefited from court decisions, and there have been allegations that judges have "slow-rolled" dockets for years without taking action. Many Panamanian legal firms suggest writing binding arbitration clauses into all commercial contracts.

International Arbitration

The GOP accepts binding international arbitration of disputes with foreign investors. Panama is a party to the 1958 New York Convention as well as to the 1975 Panama Convention. Panama became a member of the International Center for the Settlement of Investment Disputes (ICSID) in 1996. Panama adopted the UNCITRAL model arbitration law as amended in 2006. Law 131 regulates national and international commercial arbitrations in Panama.

#### *ICSID Convention and New York Convention*

Panama is a Party to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID Convention and the New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitral Awards.

#### Duration of Dispute Resolution – Local Courts

Resolving disputes through the Panamanian court system can take years, depending on the issue, the location, the court calendar or the judge. There are often reports of corruption, bribery, inconsistent treatment and a lack of transparency. The lack of judicial transparency in Panama is consistently cited by investors as a deterrent to doing business in the country. Most foreign investors rely on binding international arbitration clauses to resolve disputes.

### **5. Performance Requirements and Investment Incentives**

#### Investment Incentives

There are Special Economic Areas as the City of Knowledge, the Panama Pacifico Special Economic Area, Free Zones and the Colon Free Zone – which have special tax and other incentives for manufacturers, back office operations and call centers.

Official support for investment and business activity is especially strong for the Colon Free Zone (CFZ), the banking sector, the tourism sector, and the free zones. Companies in the CFZ pay basic user fees and a 5 percent dividend tax (or 2 percent of net profits if there are no dividends). Banks and individuals in Panama pay no tax on interest or other income earned outside Panama. No taxes are withheld on savings or fixed time deposits in Panama. Individual depositors do not pay taxes on time deposits. Free zones offer tax-free status, special immigration privileges, and license and customs exemptions to manufacturers who locate there. Investment incentives offered by the GOP are available equally to Panamanian and foreign investors. The incentives do not discriminate or distinguish between Panamanians and foreign investors.

#### *Research and Development*

The Instituto de Investigaciones Cientificas y Servicios de Alta Tecnologia (INDICASAT) is a publically and privately funded research institution that funds research in biodiversity, drug development, neuroscience, molecular and cellular biology, and clinical research.

#### Performance Requirements

There are no legal performance requirements such as minimum export percentages, significant local requirements of local equity interest, or mandatory technology transfer. There are no established general requirements that foreign investors invest in local companies, purchase goods or services from local vendors or invest in R&D or other facilities.

Companies are required to have 90 percent Panamanian employees. Exceptions to this policy are available, but must be approved by the government on a case by case basis. Fields dominated by strong unions, such as construction, have opposed issuing work permits to foreign laborers and some investors have struggled to fully staff large projects. Foreign workers are common in Panama. Visas are available and the procedures to obtain work permits are generally not considered onerous.

#### Data Storage

As part of its effort to be recognized as a hub for finances, logistics, and communications in the region, Panama has committed to establishing itself as a center for data storage. According to the Panamanian Authority for Government Innovation (AIG), the majority of these firms offer services to banking and telephone companies in Central America and the Caribbean.

Panama boasts exceptional international connectivity, with five sets of undersea fiber optic cables and two more under development.

General laws addressing protection of personally identifiable information can be found in the Constitution, the Criminal Code and the Electronic Commerce legislation. The concept of the personal privacy of communications and documents is provided for in the Panamanian Constitution as a fundamental right (Political Constitution, article 29). The Constitution also provides for a right to keep personal data confidential (article 44). The Criminal Code imposes an obligation on businesses to maintain the confidentiality of information stored in databases or elsewhere, and establishes several crimes for the misuse of such information (Criminal Code, articles 164, 283, 284, 285, 286). Panama's electronic commerce legislation also states that providers of electronic document storage must guarantee the protection, reliability and proper use of information and data stored on behalf of their customers (Law 51, July 22, 2008, article 55).

## **6. Protection of Property Rights**

#### Real Property

The majority of land in Panama, and almost all land outside of Panama City, is not titled; a system of rights of possession exists, but there are multiple instances where such rights have been successfully challenged. The World Bank's Doing Business 2016 report notes that Panama has risen to 84 out of 189 countries on the Registering Property indicator, though it still ranks 148 on Enforcing Contracts.

The judicial system's capacity to resolve contractual and property disputes is weak and open to corruption, as illustrated by the most recent World Economic Forum's Global Competitiveness Report, which rates Panama's judicial independence as 119 out of 140 countries. Americans should exercise greater due diligence in purchasing Panamanian real estate than they would in purchasing real estate in the United States. Engaging a reputable attorney and licensed real estate broker is strongly recommended.

Panama enacted Law 80 (2009) to address the lack of titled land in certain parts of the country; however, it does not cure deficiencies in government administration or the judicial system. In 2010, the National Assembly approved the creation of the National Authority of

Land Management (ANATI) to administer land titling; however, some investors have complained about ANATI's capabilities.

### Intellectual Property Rights

Panama has an adequate and effective domestic legal framework to protect and enforce intellectual property rights (IPR). The government of Panama is making efforts to strengthen the enforcement of IPR. Since 1997, two district courts and one superior tribunal have been exclusively adjudicating antitrust, patent, trademark, and copyright cases. Since January 2003, a specific prosecutor with national authority over IPR cases has consolidated and simplified the prosecution of those cases. Law 1 of 2004 added crimes against intellectual property as a predicate offense for money laundering, and Law 14 establishes a 5 year to 12 year prison term, plus possible fines. Law 10 of 2011 moved the Copyright Office from the Ministry of Education to the Ministry of Commerce and Industry. A Committee for Intellectual Property (CIPI), comprising representatives from five government agencies (Colon Free Zone, Offices of Intellectual Property Registry and Copyright under the Ministry of Commerce and Industry, Customs, and the Attorney General), under the leadership of the Ministry of Commerce and Industry, is responsible for development of intellectual property policy in Panama.

In order to implement the requirements of the TPA, Panama passed Law 62 of 2012 (industrial property) and Law 64 of 2012 (copyrights). These laws introduced important updates to Panama's IPR enforcement legislation. These updates offer improved standards for the protection and enforcement of a broad range of IPR, including protections for patents, trademarks, undisclosed test and other data submitted to obtain marketing approval for pharmaceuticals and agricultural chemicals, and digital copyrighted products such as software, music, text, and videos, as well as further deterrence of piracy and counterfeiting.

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at <http://www.wipo.int/directory/en/>.

#### *Resources for Rights Holders*

Embassy point of contact:

Colombia Primola  
Economic Specialist  
[PrimolaCE@state.gov](mailto:PrimolaCE@state.gov)

Local lawyers list: <http://panama.usembassy.gov/emergencycontact/list-of-attorneys.html>

## **7. Transparency of the Regulatory System**

In the banking and finance sector, investors generally give good marks to the Panamanian entities that regulate them, notably the Superintendent of Banks. However, U.S. businesses have expressed concern about the responsiveness and transparency of some regulating agencies and the authorities' failure to consult with businesses before enacting policies or implementing new legislation.

In 2012, Panama passed a securities law to regulate brokers, fund managers, and matters related to the securities industry. The Commission structure was modified to follow the

successful Banking Law model and now consists of a superintendent and a board of directors. The Securities Commission is generally considered to be a competent and effective regulator. Panama has committed to seeking the legal authority necessary to allow them to become a fully signatory to the International Organization of Securities Commissions MOU.

Panama is a member of UNCTAD's international network of transparent investment procedures (<http://panama.eregulations.org>). Foreign and national investors can find detailed information on administrative procedures applicable to investment and income generating operations including the number of steps, name and contact details of the entities and persons in charge of procedures, required documents and conditions, costs, processing time and legal bases justifying the procedures.

## **8. Efficient Capital Markets and Portfolio Investment**

Panamanian and foreign investors are treated equally by government policy and law with respect to access to credit. Panamanian interest rates closely follow international rates (i.e., the London Interbank Offered Rate - LIBOR), plus a country-risk premium.

Some private companies, including multinational corporations, have issued bonds in the local securities market. Companies rarely issue stock on the local market and, when they do, often issue shares without voting rights. Investor demand is generally limited because of the small pool of qualified investors. Interest from time deposits and certain bonds are tax-exempt. There is a 10 percent withholding tax on dividends, although capital gains from the sale of equities listed on the Panamanian exchange is tax exempt. While wealthy Panamanians may hold overlapping interests in various businesses, there is not an established practice of having cross-shareholding or stable shareholder arrangements, designed to restrict foreign investment through mergers and acquisitions.

### Money and Banking System, Hostile Takeovers

Panama's 1998 Banking Law (as amended in 2008) regulates the country's financial sector. The law concentrates regulatory authority in the hands of a powerful and well-financed Banking Superintendent (<http://www.superbancos.gob.pa>).

Traditional bank lending from the well-developed banking sector is relatively efficient and is the most common source of financing for both domestic and foreign investors, offering the private sector a variety of credit instruments. The free flow of capital is actively supported by the GOP and is viewed as essential to Panama's 75 banks and 16 representational offices.

There are no restrictions on, nor practical measures to prevent hostile foreign investor takeovers, nor are there regulatory provisions authorizing limitations on foreign participation or control or other practices to restrict foreign participation. There are no government or private sector rules to prevent foreign participation in industry standards setting consortia.

Financing for consumers is also relatively open, as mortgages, credit cards and personal loans, even to those earning modest incomes, are widely available on terms similar to those in the U.S.

## **9. Competition from State-Owned Enterprises**

### Sovereign Wealth Funds

Panama started a sovereign wealth fund in 2012 with an initial capitalization of \$300 million. From 2015 onwards, the law mandates contributions to the National Treasury from the Panama Canal Authority in excess of 3.5 percent of GDP be deposited in the Fund.

## **10. Responsible Business Conduct**

N/A

## **11. Political Violence**

Panama is a peaceful and stable democracy. On rare occasions, large-scale protests can turn violent and disrupt commercial activity in affected areas. Mining and energy projects have been sensitive, especially those that involve development in the designated indigenous areas (comarcas).

In May 2014, Panama held national elections that international observers agreed were free and fair. The transition to the new government was smooth and uneventful. Panama's Constitution provides for the right of peaceful assembly, and the government respects this right. No authorization is needed for outdoor assembly, although prior notification for administrative purposes is required. Unions, student groups, employee associations, elected officials, and unaffiliated groups frequently attempt to impede traffic and commerce in order to force the government or business to agree to demands.

## **12. Corruption**

President Varela campaigned on a pledge to eliminate corruption in the government, increase transparency, and prosecute corrupt officials. His government has filed charges against several high ranking officials of the previous government, including the former head of the Supreme Court who was sentenced to five years in prison for corruption.

The former President, Ricardo Martinelli campaigned on a similar promise in 2009 but he and his administration are adjudged by Panamanians to have been the most corrupt administration since the return to democracy in 1990. There are a number of Martinelli administration figures in jail or under investigation for alleged acts of official corruption.

In the most recent edition (2015) of the Transparency International Corruption Perceptions Index, Panama ranked 94 out of 175 countries measured. The Panamanian judicial system continues to pose a problem for investors due to poorly trained personnel, case backlogs, and a lack of independence from political influence. Supreme Court judges are typically nominated to 10-year terms on the basis of political considerations.

Under Panamanian law, only the National Assembly may initiate corruption investigations against Supreme Court judges and only the Supreme Court may initiate investigations against members of the National Assembly, thereby encouraging, in effect, a "non-aggression pact" between these two branches of government.

The fight against corruption is also hampered by the GOP's refusal to dismantle Panama's dictatorship-era libel and contempt laws, which can be used to punish whistleblowers, while those accused of acts of corruption are seldom prosecuted and almost never jailed.

Anti-corruption mechanisms exist, such as asset forfeiture, whistleblower and witness protection, and conflict-of-interest rules. However, the general perception is that anti-corruption laws are not applied rigorously, and that government enforcement bodies and the courts are not effective in pursuing and prosecuting those accused of corruption, particularly in high profile cases.

Panama's government lacks strong systemic checks and balances that incentivize accountability. The lack of a strong professionalized career civil service in Panama's public sector also hinders systemic change.

Panama ratified the United Nations' Anti-Corruption Convention in 2005 and the Organization of American States' Inter-American Convention Against Corruption in 1998. However, there is a perception that Panama could more effectively implement the conventions.

Complaints by American investors about allegedly corrupt judicial and governmental decisions prejudicial to their interests remain common and problematic.

*UN Anticorruption Convention, OECD Convention on Combatting Bribery*

Panama has signed and ratified the UN Anticorruption Convention.

*Resources to Report Corruption*

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### **13. Bilateral Investment Agreements**

#### Bilateral Taxation Treaties

The United States – Panama Bilateral Investment Treaty (BIT) entered into force in 1991 and was amended in 2001. The BIT ensures that, with some exceptions, U.S. investors receive fair, equitable, and nondiscriminatory treatment, and that both Parties abide by international law standards, such as for expropriation and compensation and free transfers. With the October 31, 2012 implementation of the TPA, the investor protection provisions in the TPA have supplanted those in the BIT. However, until October 30, 2022, investors may choose to invoke dispute settlement under the BIT for disputes that arose prior to entry into force of the TPA, or for disputes relating to investment agreements that were completed before the TPA entered into force.

Panama also has bilateral investment agreements with the United Kingdom, France, Switzerland, Germany, Taiwan, Canada, Argentina, Spain, Chile, Uruguay, the Czech Republic, Netherlands, Cuba, Mexico, the Dominican Republic, Korea, Ukraine, Sweden, Qatar, Finland, Mexico and Italy. Commerce Ministry officials note that there have been some exploratory talks toward investment agreements with Belgium and Luxemburg, but they acknowledge that these discussions have a lower priority than ongoing free trade

negotiations. Ministers from the Member States of the European Free Trade Association (EFTA) – Iceland, Liechtenstein, Norway and Switzerland – and from Costa Rica and Panama have signed a Free Trade Agreement (FTA) on June 2013.

#### 14. Foreign Trade Zones/Free Ports/Trade Facilitation

Law 18 of 1948 established the Colon Free Zone (CFZ), which is now the second largest free trade zone in the world, after Hong Kong. Most merchandise (clothing, footwear, electronics, pharmaceuticals, medicines, perfumes, cosmetics, liquor, cigarettes, textiles, bedding, linens and fine jewelry) is transshipped from the Far East (particularly China, Hong Kong, and Taiwan) through the CFZ to other parts of the Western Hemisphere (particularly Venezuela and Colombia). Through 2015, the CFZ imported/exported \$21 billion, down from 24 billion 2014, \$27 billion in 2013 and \$30 billion 2012. The 20 percent decrease over the last three years is due to the changing logistics capabilities of Chinese manufacturers, political and economic troubles in Venezuela and an ongoing trade dispute with Colombia.

Law 41 of 2004 provides for the development of “Panama Pacifico Special Economic Area” in the former Howard Air Force Base to encourage investment in the area, particularly in the logistics sector. Establishing a company in the SEA can be done in as little as six months. Many large American firms including Dell, WR Grace, 3M, SAMTEC, VF sourcing Latin America, Grainger, Singapore Technologies Aerospace, and Caterpillar are among the 246 multinational companies located there.

Law 32 of 2011 provides updated regulations for the development of free trade zones (not including the Colon Free Zone) in an effort to broaden the Panamanian economic development while promoting investment in former U.S. military bases transferred to Panama. The law also includes specific labor and immigration provisions that are more favorable than the current Panamanian labor code. The government also provides numerous tax incentives to companies that operate in free trade zones. Companies, whether Panamanian or foreign, operating in these zones may import inputs duty-free if products assembled in the zones are to be exported. There are currently 18 free zones with 155 companies registered. They face difficulties due to Panama's higher-than-regional-average wages, limited existing industrial base, and weak infrastructure, particularly outside the Panama-Colon Corridor. Law 25 of 2006 also provides for the development of call centers; 80 companies are currently licensed by ASEP to operate call centers.

#### 15. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

Economic Data	Host Country Statistical source		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
	Year	Amount	Year	Amount	
Host Country Gross Domestic	2013	\$42650	2014	\$46212	<a href="http://www.worldbank.org/en/country">www.worldbank.org/en/country</a>

Product (GDP) (\$M USD)					
Foreign Direct Investment	Host Country Statistical source		USG or international statistical source		USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI in partner country (\$M USD, stock positions)	2013	NA	2014	\$4687	<a href="http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm">http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm</a>
Host country's FDI in the United States (\$M USD, stock positions)	2013	N/A	214	\$1185	<a href="http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm">http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm</a>
Total inbound stock of FDI as % host GDP	2013	N/A	2014	\$2.6	N/A

Table 3: Sources and Destination of FDI

Direct Investment from/in Counterpart Economy Data						
From Top Five Sources/To Top Five Destinations (US Dollars, Millions)						
Inward Direct Investment				Outward Direct Investment		
Total Inward	\$35293	100%	Total Outward	N/A	100%	
United States	\$5870	17%	N/A	N/A	N/A	
Colombia	\$4325	12%	N/A	N/A	N/A	
United Kingdom	\$3818	11%	N/A	N/A	N/A	
South Africa	\$2642	7%	N/A	N/A	N/A	
Switzerland	\$2548	7%	N/A	N/A	N/A	
"0" reflects amounts rounded to +/- USD 500,000.						

Table 4: Sources of Portfolio Investment

Portfolio Investment Assets
Top Five Partners (Millions, US Dollars)

Total			Equity Securities			Total Debt Securities		
All Countries	\$11715	100%	All Countries	\$728	100%	All Countries	\$10988	100%
United States	\$6944	59%	United States	\$360	49%	United States	\$6584	60%
Colombia	\$992	8%	Luxembourg	\$59	8%	Colombia	\$987	9%
Peru	\$326	3%	Ireland	\$54	7%	Brazil	\$468	4%
Costa Rica	\$318	3%	United Kingdom	\$43	6%	Peru	\$324	3%
Cayman Islands	\$253	2%	Canada	\$38	5%	Costa Rica	\$317	3%

## Section 5 - Government

### Chiefs of State and Cabinet Members:

For the current list of Chief of State and Cabinet Members, please access the following - [Central Intelligence Agency online directory of Chiefs of State and Cabinet Members of Foreign Governments](#)

### Legal system:

Civil law system; judicial review of legislative acts in the Supreme Court of Justice

### International organization participation:

BCIE, CAN (observer), CD, CELAC, CSN (observer), FAO, G-77, IADB, IAEA, IBRD, ICAO, ICC (national committees), ICRM, IDA, IFAD, IFC, IFRC, ILO, IMF, IMO, IMSO, Interpol, IOC, IOM, IPU, ISO, ITSO, ITU, ITUC (NGOs), LAES, LAIA, MIGA, NAM, OAS, OPANAL, OPCW, PCA, SICA, UN, UNASUR (observer), UNCTAD, UNESCO, UNIDO, Union Latina, UNWTO, UPU, WCO, WFTU (NGOs), WHO, WIPO, WMO, WTO

## Section 6 - Tax

### Treaty and non-treaty withholding tax rates

Panama has exchange of information relationships with 24 jurisdictions through 15 DTCs and 9 TIEAs.

Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5	
Barbados	DTC	21 Jun 2010	18 Feb 2011	No	Yes	
Canada	TIEA	17 Mar 2013	6 Dec 2013	Unreviewed	Yes	
Czech Republic	DTC	4 Jul 2012	not yet in force	Unreviewed	Yes	
Denmark	TIEA	16 Nov 2012	not yet in force	Unreviewed	Yes	
Faroe Islands	TIEA	12 Nov 2012	not yet in force	Unreviewed	Yes	
Finland	TIEA	12 Nov 2012	not yet in force	Yes	Yes	
France	DTC	30 Jun 2011	1 Feb 2012	Yes	Yes	
Greenland	TIEA	12 Nov 2012	not yet in force	Unreviewed	Yes	
Iceland	TIEA	12 Nov 2012	not yet in force	Yes	Yes	
Ireland	DTC	28 Nov 2011	19 Dec 2012	Unreviewed	Yes	
Israel	DTC	8 Nov 2012	not yet in force	Yes	Yes	
Italy	DTC	30 Dec 2010	not yet in force	Yes	Yes	
Korea, Republic of	DTC	20 Oct 2010	1 Apr 2012	Yes	Yes	
Luxembourg	DTC	7 Oct 2010	1 Nov 2011	Unreviewed	Yes	
Mexico	DTC	24 Mar 2010	30 Dec 2010	Unreviewed	Yes	
Netherlands	DTC	6 Oct 2010	1 Dec 2011	Yes	Yes	
Norway	TIEA	12 Nov 2012	not yet in force	Unreviewed	Yes	
Portugal	DTC	27 Aug 2010	10 Jun 2012	Yes	Yes	
Qatar	DTC	23 Sep 2010	6 May 2011	No	Yes	
Singapore	DTC	18 Oct 2010	19 Dec 2011	Yes	Yes	
Spain	DTC	7 Oct 2010	25 Jul 2011	Yes	Yes	
Sweden	TIEA	12 Nov 2012	not yet in force	Yes	Yes	
United Arab Emirates	DTC	13 Oct 2012	not yet in force	Unreviewed	Yes	
United States	TIEA	30 Nov 2010	18 Apr 2011	Yes	Yes	

## Methodology and Sources

### Section 1 - General Background Report and Map

(Source: [CIA World Factbook](#))

### Section 2 - Anti – Money Laundering / Terrorist Financing

	Lower Risk	Medium Risk	Higher Risk
<a href="#">FATF List of Countries identified with strategic AML deficiencies</a>	Not Listed	AML Deficient but Committed	High Risk
<a href="#">Compliance with FATF 40 + 9 recommendations</a>	>69% Compliant or Fully Compliant	35 – 69% Compliant or Fully Compliant	<35% Compliant or Fully Compliant
<a href="#">US Dept of State Money Laundering assessment (INCSR)</a>	Monitored	Concern	Primary Concern
<a href="#">INCSR - Weakness in Government Legislation</a>	<2	2-4	5-20
<a href="#">US Sec of State supporter of / Safe Haven for International Terrorism</a>	No	Safe Haven for Terrorism	State Supporter of Terrorism
<a href="#">EU White list equivalent jurisdictions</a>	Yes		No
<a href="#">International Sanctions UN Sanctions / US Sanctions / EU Sanctions</a>	None	Arab League / Other	UN , EU or US
<a href="#">Corruption Index (Transparency International) Control of corruption (WGI) Global Advice Network</a>	>69%	35 – 69%	<35%
<a href="#">World government Indicators (Average)</a>	>69%	35 – 69%	<35%
<a href="#">Failed States Index (Average)</a>	>69%	35 – 69%	<35%
<a href="#">Offshore Finance Centre</a>	No		Yes

### **Section 3 - Economy**

General Information on the current economic climate in the country and information on imports, exports, main industries and trading partners.

(Source: [CIA World Factbook](#))

### **Section 4 - Foreign Investment**

Information on the openness of foreign investment into the country and the foreign investment markets.

(Source: [US State Department](#))

### **Section 5 - Government**

Names of Government Ministers and general information on political matters.

(Source: [CIA World Factbook](#) / <https://www.cia.gov/library/publications/world-leaders-1/index.html>)

### **Section 6 - Tax**

Information on Tax Information Exchange Agreements entered into, Double Tax Agreements and Exchange Controls.

(Sources: [OECD Global Forum on Transparency and Exchange of Information for Tax Purposes](#) [PKF International](#))

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